

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EUGENE I. KELLY,

Plaintiff,

v.

LYNN HEYER, et al.,

Defendants.

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Civil No. 08-3794 (NLH)

MEMORANDUM OPINION

It appearing that:

1. Plaintiff submitted to the Clerk for filing a civil Complaint, an affidavit and a two-page document captioned “Inmate: KELLY, EUGENE IRVIN, Booking #: 01-164876, Permanent ID: 113387.” The Clerk received these documents on July 30, 2008.

2. By Order entered August 8, 2008, this Court denied Plaintiff’s application to proceed in forma pauperis without prejudice and administratively terminated the action on the grounds that the account statement submitted by Plaintiff was not certified by the appropriate institutional official and it did not cover the six-month period immediately preceding the filing of the Complaint. The Order provided that Plaintiff may have the above entitled case reopened if, within 30 days of the date of the entry of the Order, Plaintiff either pre-paid the \$350.00 filing fee **or** submitted to the Clerk the required certified account statement, or an explanation as to why he is unable to submit the account statement, as required by 28 U.S.C. § 1915(a).

3. On September 16, 2008, the Clerk received Plaintiff’s affidavit of poverty and a certified copy of his prison account statement from Southern State Correctional Facility covering August 28, 2008, through September 10, 2008. The account certification is dated September 10,

2008. According to Plaintiff's affidavit of poverty, he was incarcerated at the Atlantic County Jail since June 23, 2008, and at Southern State Correctional Facility since September 2008 to the date of signing on September 4, 2008.

4. By Order entered September 18, 2008, this Court reopened the file in order for this Court to entertain Plaintiff's re-application to proceed in forma pauperis and, if same were granted, to screen the Complaint for dismissal.

5. Although Plaintiff submitted in support of his re-application, a certified account statement from Southern State Correctional Facility covering the period since August 28, 2008, he did not comply with this Court's Order entered August 8, 2008, and the statutory requirement that he submit "a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . , obtained from the appropriate official of each prison at which the prisoner is or was confined." See 28 U.S.C. § 1915(a)(2). Specifically, Plaintiff has still not provided a certified institutional account statement from Atlantic County Jail covering the period from June 23, 2008, through August 27, 2008.

6. As Plaintiff has failed to provide the required certified account statement from Atlantic County Jail, Plaintiff's re-application to proceed in forma pauperis is deficient and will be denied without prejudice to submitting another application within 30 days or prepaying the \$350.00 filing fee.

Dated: February 4, 2009
At Camden, New Jersey

s/Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.